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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,323	12/13/2001	Randal D. Schafer	840070.404	2929
500	7590	08/19/2004	EXAMINER	
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC 701 FIFTH AVE SUITE 6300 SEATTLE, WA 98104-7092			GONZALEZ, MADELINE	
			ART UNIT	PAPER NUMBER
			2859	

DATE MAILED: 08/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center">Office Action Summary</p>	<p>Application No.</p> <p>10/015,323</p>	<p>Applicant(s)</p> <p>SCHAFER, RANDAL D.</p>	
	<p>Examiner</p> <p>Madeline Gonzalez</p>	<p>Art Unit</p> <p>2859</p>	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-14, 19, 22 and 24 is/are allowed.
- 6) ☒ Claim(s) 1-10, 15-18, 20, 21, 23 and 25-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 May 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| <p>1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: _____</p> |
|--|---|

DETAILED ACTION

In response to applicant's amendment dated June 18, 2004

Claim Objections

1. Claim 27 is objected to because of the following informalities:
 - a) Claim 27: "materials" in line 9 should be replaced with --material--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 27 is finally rejected under 35 U.S.C. 102(e) as being anticipated by Thiemann (U.S. 6,740,355).

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4. Thiemann discloses a method of making a tool 100, as shown in Fig. 7, said tool 100 could be a measuring device 200, as shown in Fig. 3, for use in measuring and marking material, including the steps of:

- providing a transparent sheet of non-static cling, non-slip flexible material 104;
- marking the sheet of flexible material 104 for a visual aid; and
- placing the sheet of flexible material 104 on one of first and second opposing planar sides of a sheet of rigid material 102 to cover substantially the entire one of the first and second opposing planar sides of the sheet of rigid material 102 and provide a non-slip planar surface between the sheet of rigid material 102 and the material to be measured and marked without altering the one of the first and second opposing planar sides of the sheet of rigid material 102.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1 and 2 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Thiemann (U.S. 6,740,355).

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Thiemann discloses a tool 100, as shown in Fig. 7, said tool 100 could be a measuring device 200, as shown in Fig. 3, for use in measuring and marking material, having:

- a sheet of rigid material 102 having a plurality of lines 206 formed on a first side thereof;
- a transparent sheet of non-static cling, flexible material 104 sized and shaped to only cover the entire first side of the sheet of rigid material 102, the sheet of flexible material 104 temporarily adhered to the first side of the sheet of rigid material 102 with surface adhesion only and configured to provide a planar surface on substantially the entire first side of the sheet of rigid material 102 that resists slipping on the material and does not alter the first side of the sheet of rigid material 102 when applied thereto or removed therefrom; and
- wherein the sheet of flexible material 104 comprises a plurality of sheet segments placed together on the first side of the sheet of rigid material 102 to form a planar surface for bearing against the material.

Thiemann lacks the sheet of rigid material being transparent.

With respect to the sheet of rigid material being transparent: Thiemann discloses a measuring device 200 having a sheet of rigid material. The specific material claimed by applicant, i.e., transparent, is only considered to be the use of a “ preferred ” or “ optimum ” material out of a plurality of well known materials that a person having ordinary skill in the art at the time the invention was made would have find obvious to

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provide using routine experimentation based, among other things, on the intended use of Applicant's apparatus, i.e., suitability for the intended use of Applicant's apparatus. See *In re Leshin*, 125 USPQ 416 (CCPA 1960) where the court stated that a selection of a material on the basis of suitability for intended use of an apparatus would be entirely obvious. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to make the sheet of rigid material disclosed by Thiemann of a transparent material in order to be able to see through the material and use the tool more accurately, since it is well known in the art to manufacture measuring devices, such as rulers, of a transparent material.

7. Claims 3-6 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Thiemann (U.S. 6,740,355).

Thiemann discloses a tool 100, as shown in Fig. 7, said tool 100 could be a measuring device 200, as shown in Fig. 3, for use in measuring and marking material, having:

- a sheet of rigid material 102 having first and second opposing planar sides and a plurality of lines 206 formed on one of the first and second opposing planar sides;
- a transparent sheet of non-static cling flexible material 104 sized and shaped to substantially cover the entire first side of the sheet of rigid material 102, the sheet of flexible material 104 adhering to the first side of the sheet of rigid

material 102 by surface adhesion only and configured to provide a removable, planar, non-slip surface and to leave no adhesive on the first side of the sheet of rigid material 102 when removed therefrom;

- wherein the sheet of flexible material 104 comprises a plurality of sheet segments placed together on the first side of the sheet of rigid material 102;
- wherein the plurality of lines 206 are formed on the first side of the sheet of rigid material 102; and
- wherein the plurality of lines 206 are formed on the second side of the sheet of rigid material 102.

Thiemann lacks the sheet of rigid material being transparent.

With respect to the sheet of rigid material being transparent: Thiemann discloses a measuring device 200 having a sheet of rigid material. The specific material claimed by applicant, i.e., transparent, is only considered to be the use of a “ preferred ” or “ optimum ” material out of a plurality of well known materials that a person having ordinary skill in the art at the time the invention was made would have find obvious to provide using routine experimentation based, among other things, on the intended use of Applicant’s apparatus, i.e., suitability for the intended use of Applicant’s apparatus. See *In re Leshin*, 125 USPQ 416 (CCPA 1960) where the court stated that a selection of a material on the basis of suitability for intended use of an apparatus would be entirely obvious. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to make the sheet of rigid material disclosed by

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Thiemann of a transparent material in order to be able to see through the material and use the tool more accurately, since it is well known in the art to manufacture measuring devices, such as rulers, of a transparent material.

8. Claims 7-10 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Thiemann (U.S. 6,740,355).

Thiemann discloses a method of making a tool 100, as shown in Fig. 7, said tool 100 could be a measuring device 200, as shown in Fig. 3, for use in measuring and marking material, including the steps of:

- providing a sheet of rigid material 102 having first and second opposing planar sides and a plurality of lines 206 formed on one of the first and second opposing planar sides;
- providing a transparent sheet of non-static cling, non-slip flexible material 104;
- sizing the sheet of flexible material 104 to substantially cover only one of the first and second opposing planar sides of the sheet of rigid material 102;
- placing the sized sheet of flexible material 104 on only one of the first and second opposing planar sides of the sheet of rigid material 102 to substantially cover only the one side of the sheet of rigid material 102 and to provide a removable, planar, non-slip bearing surface between the sheet of rigid material 102 and the material to be measured and marked, the flexible material 104

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adhering to the sheet of rigid material 102 by surface adhesion only to remain in place when facing downward and to be removed from the sheet of rigid material 102 without altering the sheet of rigid material 102 and the flexible material 104;

- wherein sizing the sheet of flexible material 104 comprises forming a plurality of sheet segments of the sheet of flexible material 104 to substantially cover only one side of the sheet of rigid material 102;
- wherein the plurality of lines 206 are formed on the first planar side of the sheet of rigid material 102 and the sheet of flexible material 104 is placed over the first side of the sheet of rigid material 102; and
- wherein the plurality of lines 206 are formed on the second side of the sheet of rigid material 102 and the sheet of flexible material 104 is placed on the first side of the sheet of rigid material 102.

Thiemann lacks the sheet of rigid material being transparent.

With respect to the sheet of rigid material being transparent: Thiemann discloses a measuring device 200 having a sheet of rigid material. The specific material claimed by applicant, i.e., transparent, is only considered to be the use of a “ preferred ” or “ optimum ” material out of a plurality of well known materials that a person having ordinary skill in the art at the time the invention was made would have find obvious to provide using routine experimentation based, among other things, on the intended use of Applicant’s apparatus, i.e., suitability for the intended use of Applicant’s apparatus. See

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In re Leshin, 125 USPQ 416 (CCPA 1960) where the court stated that a selection of a material on the basis of suitability for intended use of an apparatus would be entirely obvious. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to make the sheet of rigid material disclosed by Thiemann of a transparent material in order to be able to see through the material and use the tool more accurately, since it is well known in the art to manufacture measuring devices, such as rulers, of a transparent material.

9. Claims 15-18 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Thiemann (U.S. 6,740,355).

Thiemann discloses a tool 100, as shown in Fig. 7, said tool 100 could be a measuring device 200, as shown in Fig. 3, for use in measuring and marking material, having:

- a sheet of rigid material 102 having opposing first and second sides with a plurality of lines 206 formed on one of the first and second sides;
- a transparent sheet of non-static cling, flexible material 104 removably adhered to only one of the first and second sides of the sheet of rigid material 102 and sized and shaped to substantially cover the side to which it is adhered and to provide a planar, non-slip surface between the sheet of rigid material 102 and the material to be measured and marked and to not alter the sheet of

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rigid material 102 when the sheet of flexible material 104 is applied thereto or removed therefrom;

- wherein the sheet of flexible material 104 is adhered to the side of the sheet of rigid material 102 on which the plurality of lines 206 are formed;
- wherein the sheet of flexible material 104 is adhered to the side of the sheet of rigid material 102 that does not have the plurality of lines 206 formed thereon;
- and
- wherein the sheet of flexible material 104 is formed of multiple segments.

Thiemann lacks the sheet of rigid material being transparent.

With respect to the sheet of rigid material being transparent: Thiemann discloses a measuring device 200 having a sheet of rigid material. The specific material claimed by applicant, i.e., transparent, is only considered to be the use of a “ preferred ” or “ optimum ” material out of a plurality of well known materials that a person having ordinary skill in the art at the time the invention was made would have find obvious to provide using routine experimentation based, among other things, on the intended use of Applicant’s apparatus, i.e., suitability for the intended use of Applicant’s apparatus. See *In re Leshin*, 125 USPQ 416 (CCPA 1960) where the court stated that a selection of a material on the basis of suitability for intended use of an apparatus would be entirely obvious. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to make the sheet of rigid material disclosed by Thiemann of a transparent material in order to be able to see through the material and use

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the tool more accurately, since it is well known in the art to manufacture measuring devices, such as rulers, of a transparent material.

10. Claim 20 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over Thiemann (U.S. 6,740,355).

Thiemann discloses a tool 100, as shown in Fig. 7, said tool 100 could be a measuring device 200, as shown in Fig. 3, for use in measuring and marking material, having:

- a sheet of rigid material 102 having a plurality of lines 206 formed on a first side thereof; and
- a transparent sheet of non-static cling, flexible material 104 removably adhered to the first side of the sheet of rigid material 102 with surface adhesion only and configured to cover substantially the entire first side of the sheet of rigid material 102 and provide a non-slip planar surface that resists slipping on the material to be measured and marked and does not alter the first side of the sheet of rigid material 102 when applied thereto or removed therefrom, the transparent sheet of flexible material comprising plasticizers that continually migrate to surfaces of the transparent sheet of flexible material 104.

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Thiemann lacks the sheet of rigid material being transparent.

With respect to the sheet of rigid material being transparent: Thiemann discloses a measuring device 200 having a sheet of rigid material. The specific material claimed by applicant, i.e., transparent, is only considered to be the use of a “ preferred ” or “ optimum ” material out of a plurality of well known materials that a person having ordinary skill in the art at the time the invention was made would have find obvious to provide using routine experimentation based, among other things, on the intended use of Applicant’s apparatus, i.e., suitability for the intended use of Applicant’s apparatus. See *In re Leshin*, 125 USPQ 416 (CCPA 1960) where the court stated that a selection of a material on the basis of suitability for intended use of an apparatus would be entirely obvious. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to make the sheet of rigid material disclosed by Thiemann of a transparent material in order to be able to see through the material and use the tool more accurately, since it is well known in the art to manufacture measuring devices, such as rulers, of a transparent material.

11. Claim 21 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over Thiemann (U.S. 6,740,355) in view of Reber et al. (U.S. 5,557,996).

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Thiemann discloses a tool 100, as shown in Fig. 7, said tool 100 could be a measuring device 200, as shown in Fig. 3, for use in measuring and marking material, having:

- a sheet of rigid material 102 having first and second opposing planar sides and a plurality of lines 206 formed on one of the first and second opposing planar sides; and
- a sheet of non-static cling flexible material 104 formed of material having plasticizers that continually migrate to surfaces of the sheet of flexible material 104, the sheet of flexible material 104 adhering to the first side of the sheet of rigid material 102 by surface adhesion only and configured to cover substantially the entire first side of the sheet of rigid material 102 to provide a planar, non-slip surface and to leave no adhesive on the first side of the sheet of rigid material 102 when removed therefrom.

Thiemann lacks the sheet of rigid material being transparent, and the sheet of flexible material formed from a vinyl material.

With respect to the sheet of rigid material being transparent: Thiemann discloses a measuring device 200 having a sheet of rigid material. The specific material claimed by applicant, i.e., transparent, is only considered to be the use of a “ preferred ” or “ optimum ” material out of a plurality of well known materials that a person having ordinary skill in the art at the time the invention was made would have find obvious to provide using routine experimentation based, among other things, on the intended use of

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Applicant's apparatus, i.e., suitability for the intended use of Applicant's apparatus. See *In re Leshin*, 125 USPQ 416 (CCPA 1960) where the court stated that a selection of a material on the basis of suitability for intended use of an apparatus would be entirely obvious. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to make the sheet of rigid material disclosed by Thiemann of a transparent material in order to be able to see through the material and use the tool more accurately, since it is well known in the art to manufacture measuring devices, such as rulers, of a transparent material.

With respect to the sheet of flexible material formed from a vinyl material: Reber discloses a sheet of flexible material 31, as shown in Fig. 11, said sheet formed by a non-static cling vinyl material. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to formed the sheet of non-static cling flexible material disclosed by Thiemann of a vinyl material as taught by Reber since Reber teaches that vinyl is a suitable non-static cling material.

12. Claim 23 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over Thiemann (U.S. 6,740,355) in view of Reber (U.S. 5,557,996).

Thiemann discloses a tool 100, as shown in Fig. 7, said tool 100 could be a measuring device 200, as shown in Fig. 3, for use in measuring and marking material, having:

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- a sheet of rigid material 102 having opposing first and second sides with a plurality of lines 206 formed on one of the first and second sides; and
- a transparent sheet of non-static cling, flexible material 104 formed from a material having plasticizers therein that continually migrate to a surface of the flexible material 104, the flexible material 104 removably adhered to only one of the first and second sides of the sheet of rigid material 102 to cover substantially the entire one of the first and second sides of the sheet of rigid material 102 and provide a removable, planar, non-slip surface between the sheet of rigid material 102 and the material to be measured and marked, the flexible material 104 configured to not alter the sheet of rigid material 102 when applied thereto and to not alter and leave an adhesive on the sheet of rigid material 102 when removed therefrom.

Thiemann lacks the sheet of rigid material being transparent, and the sheet of flexible material formed from a vinyl material.

With respect to the sheet of rigid material being transparent: Thiemann discloses a measuring device 200 having a sheet of rigid material. The specific material claimed by applicant, i.e., transparent, is only considered to be the use of a “ preferred ” or “ optimum ” material out of a plurality of well known materials that a person having ordinary skill in the art at the time the invention was made would have find obvious to provide using routine experimentation based, among other things, on the intended use of Applicant’s apparatus, i.e., suitability for the intended use of Applicant’s apparatus. See

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In re Leshin, 125 USPQ 416 (CCPA 1960) where the court stated that a selection of a material on the basis of suitability for intended use of an apparatus would be entirely obvious. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to make the sheet of rigid material disclosed by Thiemann of a transparent material in order to be able to see through the material and use the tool more accurately, since it is well known in the art to manufacture measuring devices, such as rulers, of a transparent material.

With respect to the sheet of flexible material formed from a vinyl material: Reber discloses a sheet of flexible material 31, as shown in Fig. 11, said sheet formed by a non-static cling vinyl material. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to formed the sheet of non-static cling flexible material disclosed by Thiemann of a vinyl material as taught by Reber since Reber teaches that vinyl is a suitable non-static cling material.

13. Claim 25 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over Thiemann (U.S. 6,740,355).

Thiemann discloses a method of making tool 100, as shown in Fig. 7, said tool 100 could be a measuring device 200, as shown in Fig. 3, for use in measuring and marking material, including the steps of:

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- providing a sheet of rigid material 102 having first and second opposing planar sides and a plurality of lines 206 formed on one of the first and second opposing planar sides;
- providing a transparent sheet of non-static cling, non-slip flexible material 104;
- placing the sheet of flexible material 104 on one of the first and second opposing planar sides of the sheet of rigid material 102 to cover substantially the entire one of the first and second opposing planar sides of the sheet of rigid material 102 and provide a planar non-slip surface between the sheet of rigid material 102 and the material to be measured and marked, the sheet of flexible material 104 adhering to the sheet of rigid material 102 by surface adhesion only and to not leave adhesive material on the sheet of rigid material 102 when removed therefrom.

Thiemann lacks the sheet of rigid material being transparent.

With respect to the sheet of rigid material being transparent: Thiemann discloses a measuring device 200 having a sheet of rigid material. The specific material claimed by applicant, i.e., transparent, is only considered to be the use of a “ preferred ” or “ optimum ” material out of a plurality of well known materials that a person having ordinary skill in the art at the time the invention was made would have find obvious to provide using routine experimentation based, among other things, on the intended use of Applicant’s apparatus, i.e., suitability for the intended use of Applicant’s apparatus. See

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In re Leshin, 125 USPQ 416 (CCPA 1960) where the court stated that a selection of a material on the basis of suitability for intended use of an apparatus would be entirely obvious. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to make the sheet of rigid material disclosed by Thiemann of a transparent material in order to be able to see through the material and use the tool more accurately, since it is well known in the art to manufacture measuring devices, such as rulers, of a transparent material.

14. Claim 26 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over Thiemann (U.S. 6,740,355) in view of Reber (U.S. 5,557,996).

Thiemann discloses a method of making a tool 100, as shown in Fig. 7, said tool 100 could be a measuring device 200, as shown in Fig. 3, for use in measuring and marking material, having:

- providing a transparent sheet of flexible material 104 formed of non-static cling film having plasticizers that continually migrate to a surface of the film;
- placing the sheet of flexible material 104 on one of first and second opposing planar sides of a sheet of rigid material 102 to cover substantially the entire one of the first and second opposing planar sides of the sheet of rigid material 102 and form a planar non-slip surface between the sheet of rigid material 102 and the material to be measured and marked, the sheet of flexible material 104 adhering to the sheet of rigid material by surface adhesion only; and

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- removing the sheet of flexible material 104 from the sheet of rigid material 102 without altering the sheet of rigid material 102 and without leaving adhesive on the sheet of rigid material 102.

Thiemann lacks the sheet of flexible material formed from a vinyl material.

With respect to the sheet of flexible material formed from a vinyl material: Reber discloses a sheet of flexible material 31, as shown in Fig. 11, said sheet formed by a non-static cling vinyl material. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to formed the sheet of non-static cling flexible material disclosed by Thiemann of a vinyl material as taught by Reber since Reber teaches that vinyl is a suitable non-static cling material.

Allowable Subject Matter

15. Claims 11-14, 19, 22 and 24 are allowed.

16. The following is a statement of reasons for the indication of allowable subject matter:

Claims 11, 19, 22 and 24 are allowed because the prior art of record does not show or suggest a tool for measuring and marking material, the tool including a

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transparent sheet of non-static cling, flexible material sized and shaped to cover the entire first side of a sheet of rigid material, the sheet of flexible material having a plurality of lines formed on one of first and second opposing sides, in combination with the remaining limitations in the claims.

Claims 12-14 are allowed due to their dependency on claim 11.

Response to Arguments

17. Applicant's arguments with respect to claims 1-27 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

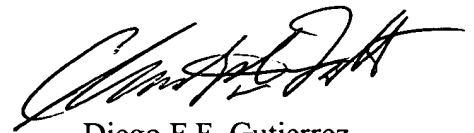
19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Madeline Gonzalez whose telephone number is (571) 272-2243. The examiner can normally be reached on Monday-Friday (8:00-5:30), alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MG



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PRIMARY EXAMINER